

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

CIVIL ACTION FILE NO.: 2:05-CV-21-FL(1)

JAMES ALAN GELL,)	
)	
Plaintiff,)	DEFENDANT’S MOTION TO STRIKE
)	AFFIDAVIT AND DEPOSITION
v.)	TESTIMONY
)	
DWIGHT L. RANSOME, in his individual)	Fed. R. Civ. P. 56
capacity,)	
Defendants.)	
)	

Defendant, Dwight L. Ransome (“Defendant Ransome”), by and through counsel, pursuant to Rule 56 of the Federal Rules of Evidence, respectfully requests this Honorable Court (1) to strike, in whole or in part, the Affidavits of Robert Blowe, Paula Brabble, Janelle Harris, Peggy Moore (by and through the Affidavit of Jerry Waller), and Charles Moore; and (2) to strike, in whole or in part, the designated portions of the deposition testimony of Larry Luke, Benjamin Parker, Jr., and Maynard Harrell, filed and submitted by Plaintiff in opposition to Defendant’s Motion for Summary Judgment.

In support of the present Motion, Defendant Ransome has filed contemporaneously herewith, his Memorandum of Law in Support of Motion to Strike Affidavit and Deposition Testimony, together with exhibits thereto.

This the 11th day of February, 2008.

_____/s/ Gary H. Clemmons
GARY H. CLEMMONS
CHESNUTT, CLEMMONS & PEACOCK, P.A.
225-C Broad Street
Post Office Box 12530
New Bern, NC 28561
(252) 633-6868
N.C. Bar No. 9750

_____/s/ Gary H. Clemmons, for
SUSAN P. ELLIS
Attorney at Law
610 Goose Creek Road
New Bern, NC 28562
(252) 637-4104
N.C. Bar No. 19915

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this pleading upon the other parties to this action by electronic notice through the United States District Court (CM/ECF) and by () facsimile () depositing a copy in the United States Mail to those parties not registered to receive electronic communications from the Court, this the 11th day of February, 2008.

/s/ Gary H. Clemmons

GARY H. CLEMMONS
CHESNUTT, CLEMMONS & PEACOCK, P.A.
225-C Broad Street
P.O. Box 12530
New Bern, N.C. 28561
(252) 633-6868

TO:

David S. Rudolf
Rudolf Widenhouse & Fialko
1800 Camden Road, Suite 105
Charlotte, NC 28203

Anna Benvenuti Hoffmann
Cochran Neufeld & Scheck, LLP
99 Hudson Street, 8th Floor
New York, NY 10013